

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) Health and other services

Notwithstanding subsection (a) of this section and section 12211(b)(3) of this title, an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) “Illegal use of drugs” defined

(1) In general

The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) Drugs

The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act [21 U.S.C. 812].

(Pub. L. 101-336, title V, §510, July 26, 1990, 104 Stat. 375.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (d)(1), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 sections 791, 793, 794.

§ 12211. Definitions

(a) Homosexuality and bisexuality

For purposes of the definition of “disability” in section 12102(2) of this title, homosexuality and bisexuality are not impairments and as such are not disabilities under this chapter.

(b) Certain conditions

Under this chapter, the term “disability” shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

(Pub. L. 101-336, title V, §511, July 26, 1990, 104 Stat. 376.)

§ 12212. Alternative means of dispute resolution

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter.

(Pub. L. 101-336, title V, §513, July 26, 1990, 104 Stat. 377.)

§ 12213. Severability

Should any provision in this chapter be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the chapter, and such action shall not affect the enforceability of the remaining provisions of the chapter.

(Pub. L. 101-336, title V, §514, July 26, 1990, 104 Stat. 378.)

CHAPTER 127—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

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§ 12301. Findings

Congress finds that—

(1) children and youth are inherently the most valuable resource of the United States;

(2) the welfare, protection, healthy development, and positive role of children and youth in society are essential to the United States;

(3) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive employment opportunities, and preparation for responsible participation in community life;

(4) children and youth have increasing opportunities to participate in the decisions that affect their lives;

(5) the family is the primary caregiver and source of social learning and must be supported and strengthened;

(6) when a family is unable to ensure the satisfaction of basic needs of children and youth it is the responsibility of society to assist such family; and

(7) it is the joint and several responsibility of the Federal Government, each State, and the political subdivisions of each State to assist children and youth to secure, to the maximum extent practicable, equal opportunity to full and free access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) a high level of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment and participation in decisions affecting their lives;

(E) a wide range of civic, cultural, and recreational activities that recognize young Americans as resources and promote self-esteem and a stake in the communities of such Americans; and

(F) comprehensive community services that are efficient, coordinated, readily available, and involve families of young individuals.

(Pub. L. 101-501, title IX, §902, Nov. 3, 1990, 104 Stat. 1262.)

EFFECTIVE DATE

Chapter effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

SHORT TITLE

Section 901 of title IX of Pub. L. 101-501 provided that: “This title [enacting this chapter] may be cited as the ‘Claude Pepper Young Americans Act of 1990’.”

Section 955 of Pub. L. 101-501 provided that: “This chapter [chapter 3 (§§955-960) of subtitle A of title IX of Pub. L. 101-501, enacting part C of subchapter I of this chapter] may be cited as the ‘Family Resource Act’.”

Section 981 of Pub. L. 101-501 provided that: “This subtitle [subtitle B (§§981-988) of title IX of Pub. L. 101-501, enacting subchapter II of this chapter] may be cited as the ‘1993 White House Conference on Children, Youth, and Families’.”

COMMISSION ON CHILD AND FAMILY WELFARE

Pub. L. 102-521, §5, Oct. 25, 1992, 106 Stat. 3406, provided for establishment, membership, etc., of a Commission on Child and Family Welfare, specified that